

REMARKS

Claims 1, 2, 4, 6 – 8, 12 – 15, and 17 – 21 have been examined and stand rejected under 35 U.S.C. §103(a) as unpatentable over O'Mahony, "Electronic Payment Systems" (O'Mahony) in view of Santoro, "Australia Postal Corp. Launches Bank Network" (Santoro). In the case of Claims 2, 4, 6 – 8, 18 – 21, the Office Action additionally relies on Official Notice, and in the case of Claims 14, 15, and 17, the Office Action states that it would have been obvious to include the recited limitations.

Applicants respectfully disagree with the Office Action's general conclusion that the claims read on the combination of O'Mahony and Santoro. The Office Action broadly cites Chapters 4 and 5 of O'Mahony as disclosing all limitations of independent Claim 1, with Santoro being relied on as disclosing over-the-counter bill payments.

Chapters 4 and 5 of O'Mahony broadly describe an electronic payment system that uses such instruments as credit instruments and electronic checks, with the Office Action characterizing it as "an electronic payment system wherein a consumer makes payments to a merchant through a third party" (Office Action, p. 3). In drawing a correspondence between the claim limitations and O'Mahony, Applicants thus understand the Office Action to be identifying the "lender" recited in the claims with the "merchant," and identifying the "payment service provider" recited in the claims with the "third party."

With such a correspondence, Applicants respectfully disagree that the limitation of Claim 1 reciting "sending a notice from the payment service provide system to the lender system, the notice comprising an indicator that the cash payment has been received, the indicator identifying the paid amount." In a credit based system like the one described in Chapter 4 of O'Mahoney, it is conventional for the "third party" to make payment for a purchase at the "merchant" on behalf of the customer, with the loan relationship then existing between the customer and the "third party." It is thus irrelevant to the merchant when and whether the customer makes payments to the third party pursuant to that relationship, and nothing in Mahoney teaches or suggests sending a notice indicating when cash payments are received.

Indeed, Applicants respectfully disagree that O'Mahoney or Santoro teaches cash payments as recited in the claims. If the Office Action intends to draw a different correspondence, Applicants request that the correspondence be specified explicitly so that it may be fully considered in responding. 37 C.F.R. §1.104(c)(2).

In any event, the claims have been amended in the interest of continuing to advance prosecution of the application. The limitations of Claim 4 have been incorporated into independent Claim 1 and both independent Claims 1 and 13 have been amended to recite that initiation of the electronic funds transfer of at least a portion of the paid amount to the control of the lender is in response to receipt of the cash payment by the payment service provider (Application, p. 9, ll. 22 – 28). This again highlights a difference with conventional payment schemes like that described in Mahoney where payments to the “third party” are decoupled from payment by the third party to the “merchant.” Since these limitations are also not disclosed by the cited art, the claims are respectfully believed to be patentable.

The taking of Official Notice with respect to the limitations of at least previous Claim 4, i.e. that “the promise-to-pay record include[] a transaction identifier,” that “the record of receipt of the cash payment include[] a purported transaction identifier provided by the consumer,” and that “associating the record of receipt of the cash payment with the promise-to-pay record comprises matching the purported transaction identifier provided by the consumer with the transaction identifier included in the promise-to-pay record,” is respectfully traversed and a showing of documentary proof requested. MPEP 2144.03. The taking of Official Notice is traversed because no evidentiary support has been provided for the statements, either in the form of a documentary reference or in the form of an affidavit or declaration specifying facts to support the Examiner's personal knowledge. Similarly, the taking of Official Notice with respect to the limitations recited in Claims 6, 7, 8, 20, and 21 is also respectfully traversed and a showing of documentary proof also requested.

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Amdt. dated October 21, 2005
Reply to Office Action of August 2, 2005


PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,


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